IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 95/2005

Shri Cain D'Cruz, resident of
House No.235-236, Praca de
Rachol, Salcete, Goa. ..... Petititioner.

V/s.

(1)Mamlatdar of Salcete,
having Office at the
Collectorate Building,
Margao, Goa.

(2)State of Goa, through its
Chief Secretary,
having office at
Secretariat, Porvorim,
Bardez, Goa.

(3)Tenant Association of
Vodle Vorde, through its
Chairman Mrs. Volgu Vaz
Santa Mol, Raia, Salcete, Goa. ..... Respondents.

Mr. M. S. Sonak, Advocate for the petitioner.

Mr. S. S. Kantak, Advocate General with Ms. L. Dharwadkar, Addl. Govt. Advocate for the respondents No.1 and 2.

Mr. F. M. Reis, Advocate for the respondent No.3.

CORAM : R.M. LODHA &
N.A. BRITTO, JJ.

DATE : 29TH AUGUST, 2005.

ORAL ORDER : (Per R.M. LODHA, J.)

Heard Mr. M. S. Sonak, the learned Counsel for the petitioner, Mr. S. S. Kantak, the learned Advocate General and Mr. F. M. Reis, the learned Counsel for the respondent No.3.

2. It is not necessary to go into the diverse contentions raised by the petitioner on merits, since it appears that in so far as the petitioner's grievance about drawing of water from the paddy field is concerned, it has been already drawn out on 22.3.2005. The orders passed by the Mamlatdar, thus, have been compiled with. However, the controversy raised in the writ petition is recurring and to avoid multiplicity of proceedings and further litigation, we are of the view that the aspect raised by the respondent No.3 in reply affidavit dated 21.3.2005 need to be examined by the Mamlatdar in accordance with the Goa, Daman and Diu Agricultural Tenancy (Discharge of Joint Responsibility of Tenants) Rules, 1975.

3. The Managing Committee of the respondent No.3 is responsible for discharge of functions as set out in Rule 5. The accounts of the Committee also have to be maintained as provided in Rule 7. Rule 6(15) provides that if the Mamlatdar, after due enquiry, is satisfied that the Managing Committee

has failed to discharge the duties or has abused the powers or has done any acts which are harmful to the agricultural land, he shall dissolve the Managing Committee and exercise all its powers till a new Managing Committee is constituted in accordance with the provisions of sub-rule (1). There is a proviso appended thereto. Rule 10 empowers the Mamlatdar to take necessary action on the matters which have not been specifically provided in these rules in connection with the discharge of joint responsibility by the tenants.

4. The procedure for lease of fishing rights and trees on bunds is provided in Rule 8. Sub-rule (3) of Rule 8 provides that if any complaint is received by the Mamlatdar or if a report is made to him to the effect that the person to whom the right to the fishing has been auctioned by the Managing Committee is abusing the powers or doing acts which are harmful to the agricultural lands, the Mamlatdar, on being satisfied after a summary enquiry, may terminate the right of fishing of such person forthwith, without prejudice to such other auction which the Managing Committee may have against him. Sub-rule (4), provides that if in the opinion of the Mamlatdar, any person is unauthorisedly exercising the rights of fishing, it shall

be lawful for the Mamlatdar to summarily evict such person in the manner provided in sub-rule (5).

5. It would, thus, be seen that the Mamlatdar has full powers to take corrective measures and necessary action in connection with the matters provided under the Rules of 1975.

6. We, therefore, direct the Mamlatdar to hold an enquiry into the grievance of the petitioner and the aspects raised by the respondent No.3 in their reply affidavit dated 21.3.2005 and after hearing the petitioner and the respondent no.3, pass appropriate order in accordance with Rules of 1975 to avoid further controversy in the matter.

7. With the aforesaid directions, the writ petition is disposed of.

R.M. LODHA, J.

N.A. BRITTO, J.

ssm.